

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

DELMIRO LICHTENBERGER,

Petitioner,

v.

LORIE DAVIS, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,

Respondent.

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2:16-CV-0176

**ORDER OVERRULING OBJECTIONS,**  
**ADOPTING REPORT AND RECOMMENDATION**  
**and DENYING PETITION FOR A WRIT OF HABEAS CORPUS**

Petitioner has filed an application for a writ of habeas corpus challenging a state prison disciplinary decision. On August 18, 2016, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the habeas application be denied because petitioner is not eligible for mandatory supervised release.

“As a general rule, only sanctions which result in loss of good conduct time credits for inmates who are eligible for release on mandatory supervision or which otherwise directly and adversely affect release on mandatory supervision will impose upon a liberty interest.” *Spicer v. Collins*, 9 F.Supp. 2d 673, 685 (E.D. Tex. 1998) (*citing Orellana v. Kyle*, 65 F.3d 29, 31-33 (5th Cir. 1995), *cert. denied*, 516 U.S. 1059 (1996)). Petitioner is not eligible for release on mandatory supervision, therefore, any forfeited good time credits apply only toward his eligibility for parole. Prisoners in Texas possess no constitutionally protected right to release on parole as such release is discretionary. Because petitioner is ineligible for early release under the Texas

mandatory supervision scheme, he has no constitutionally protected interest in previously earned good-time credits.

On August 26, 2016, petitioner filed objections to the Report and Recommendation. In his objections, petitioner does not assert he is eligible for mandatory supervised release, nor does he assert that overturning his disciplinary proceeding and reinstating his forfeited good time would automatically result in his earlier release.

The undersigned United States District Judge has made an independent examination of the record in this case. Petitioner's objections are without merit and are OVERRULED. The Magistrate Judge's Report and Recommendation is ADOPTED, and the application for a writ of habeas corpus filed by petitioner is DENIED.

IT IS SO ORDERED.

ENTERED this 24<sup>th</sup> day of August 2016.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE